

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ANGELICA C., et al.,

Case No. 20-CV-913 (NEB/ECW)

Petitioners,

v.

ORDER ON RESPONDENTS'
MOTION TO DISMISS

IMMIGRATION AND CUSTOMS
ENFORCEMENT, PETER BERG, and
WILLIAM BARR,

Respondents.

Petitioners are U.S. Immigration and Customs Enforcement detainees who have filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, seeking release from their present detention due to the COVID-19 pandemic. (ECF No. 1 (“Petition”).) After Petitioners filed a motion for injunctive relief, United States Magistrate Judge Elizabeth Cowan Wright issued a thorough and well-reasoned Report and Recommendation in which she recommended denying the motion without prejudice. (ECF No. 42 (“R&R”).) No parties objected to the R&R, and this Court accepted the R&R in June 2020. (ECF No. 43.) Respondents now move for summary dismissal of the Petition under 28 U.S.C. § 2243. (ECF No. 48.)

Section 2243 provides that a court entertaining an application for a writ of habeas corpus “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.” 28 U.S.C. § 2243. Here, the parties agree that: (1) the Petition does

not seek any further or different relief beyond Petitioners' motion for injunctive relief; (2) all but two of the original Petitioners have been removed from the United States; and (3) the two remaining Petitioners are subject to final orders of removal while being held at Sherburne County Jail. (ECF Nos. 49 at 1–2, 52 at 1; *see* ECF No. 50.) Petitioners also acknowledge that Judge Wright thoroughly analyzed the pertinent issues presented by the parties after extensive briefing. (ECF No. 52 at 1–2 (citing R&R).)

Nonetheless, Petitioners maintain that they are entitled to the relief sought in the Petition, and request that if the Court grants Respondents' motion, that dismissal of the Petition be without prejudice. (*Id.* at 2.) The Court finds that Petitioners offer no evidence of a change in circumstances sufficient to preclude dismissal of the Petition. The Court therefore grants Respondents' summary motion to dismiss under § 2243, and denies and dismisses the Petition without prejudice.

CONCLUSION

Based upon all the files, records, and proceedings in the above-captioned matter, IT IS HEREBY ORDERED THAT:

1. Respondents' Motion to Dismiss (ECF No. 48) is GRANTED; and
2. Petitioners' Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (ECF No. 1) is DENIED and DISMISSED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: October 1, 2020

BY THE COURT:

s/Nancy E. Brasel

Nancy E. Brasel

United States District Judge